

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Sep 12, 2022

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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTOPHER BRENT BJARKE, M.D.,

Defendant.

Case No.: 2:22-CR-00123-RMP

INFORMATION

Vio: 18 U.S.C. § 371; 42 U.S.C.  
§ 1320a-7b(b)

18 U.S.C. § 981(a)(1)(C), 28 U.S.C.  
§ 2461(c)

Forfeiture Allegations

The United States Attorney charges:

General Allegations

*Medicare and Coverage for Diagnostic Laboratory Testing*

1. Medicare is a federal health care benefit program that provides health insurance to elderly and disabled citizens in the United States. Medicare provides health insurance coverage for eligible health care services including hospital services, outpatient services, medical equipment, prescription drug costs, and certain types of diagnostic laboratory testing.

2. Medicare covers diagnostic laboratory testing only if such test is reasonable and necessary for the diagnosis or treatment of illness or injury. In

INFORMATION

1 order to be considered reasonable and medically necessary, clinical laboratory  
2 services must be ordered and used promptly by the physician who is treating the  
3 beneficiary for a specific medical problem and who uses the results in the  
4 management of the beneficiary's specific medical problem. Tests not ordered by  
5 the physician who is treating the beneficiary are considered not reasonable and  
6 necessary and therefore not reimbursable under Medicare.

7 3. Defendant is a licensed physician in Washington State. During the  
8 time period relevant to this Information, Defendant resided in Renton, Washington.

9 4. Between on or about October 26, 2020, and continuing thereafter until  
10 on or about July 30, 2021, in the Eastern District of Washington and elsewhere, the  
11 Defendant, CHRISTOPHER BRENT BJARKE, knowingly and willfully conspired  
12 and agreed with other persons both known and unknown, to violate the Anti-  
13 Kickback Statute, 42 U.S.C. § 1320a-7b(b), by knowingly and willfully soliciting  
14 and receiving remuneration in return for referring individuals to persons for the  
15 furnishing or arranging for the furnishing of items and services for which payment  
16 was in whole or in part under a Federal health care program, to wit, the Medicare  
17 program.

#### 18 MANNER AND MEANS OF THE KICKBACK SCHEME AND CONSPIRACY

19 5. It was part of the conspiracy that on or about October 26, 2020,  
20 Defendant executed a "Physician Independent Contractor Agreement" with a  
21 company, referred to hereinafter as Company A, to provide contracted physician  
22 telemedicine services in support of certain types of genetic laboratory testing.  
23 Company A in turn arranged with a telemedicine company known as Company B  
24 to provide contracted physician services, including Defendant's services, in  
25 support of Company B's attempts to market genetic testing and other types of  
26 telemedicine services. Company B provided a list of criteria to Defendant for  
27 determining whether an individual qualified for genetic testing.

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INFORMATION

1           5. As a further part of the scheme and conspiracy, Company B arranged  
2 with various telemarketing companies to contact by telephone elderly Medicare  
3 beneficiaries. The Medicare beneficiaries were told by the telemarketing company  
4 representatives that they qualified for cardiac genetic testing or other types of  
5 genetic testing, which would provide valuable information about the beneficiaries'  
6 cardiovascular health by determining whether they were at genetic risk for  
7 cardiovascular disease and events. Beneficiaries were further informed by  
8 telemarketing representatives and Defendant that Medicare would cover the entire  
9 cost of the testing, such that there would be no out-of-pocket cost to them. The  
10 telemarketing companies took information from beneficiaries regarding their  
11 personal and family history with cardiovascular disease, including whether they or  
12 any of their family had high blood pressure, high cholesterol, or had suffered a  
13 heart attack, stroke, or other cardiac event.

14           6. As a further part of the conspiracy, once the telemarketing companies  
15 had obtained this family and personal information from beneficiaries, the  
16 companies informed the beneficiaries that they would need to speak briefly to a  
17 physician, promised the beneficiaries it would only take one to three minutes, and  
18 then connected beneficiaries by phone with either Defendant or a different  
19 available physician through a web-based application.

20           7. As a further part of the conspiracy, during a brief telephone  
21 conversation that typically took between approximately three and four minutes,  
22 Defendant would confirm a beneficiary's personal and family history with  
23 cardiovascular disease. Defendant, using criteria provided by Company B,  
24 approved cardiovascular genetic testing for nearly every beneficiary with whom he  
25 spoke for the cardiovascular genetic testing. Other than applying the criteria  
26 provided by Company B against the patient's self-reported history provided to  
27 Company B and confirmed by Defendant with the beneficiary, Defendant did not  
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1 exercise any independent medical judgment regarding whether the beneficiary  
2 needed or could benefit from cardiovascular genetic testing. Defendant did not  
3 review any medical records or documentation other than the beneficiary's self-  
4 reported family history and self-reported medication list as taken by the  
5 telemarketing company. Defendant did not take any vital signs of any  
6 beneficiaries, nor did Defendant observe, remotely or otherwise, the beneficiary or  
7 establish a bona fide physician-patient relationship. Defendant's discussion with  
8 the beneficiary was limited to applying Company B's criteria for determining  
9 whether a beneficiary was qualified for the cardiovascular genetic testing and did  
10 not include any other medical information or discussion of the beneficiary's health  
11 condition or any health problems or concerns.

12 8. As a further part of the conspiracy, in order to convince some  
13 beneficiaries to agree to the test, and consistent with direction provided by  
14 Company B, Defendant frequently advised beneficiaries that the genetic testing  
15 results could be helpful for the beneficiaries' children or grandchildren.

16 9. As a further part of the conspiracy, Defendant asked beneficiaries  
17 whether they had any questions about the genetic test, and whether they would  
18 agree to it. If beneficiaries agreed to the test, Defendant electronically approved it  
19 in the electronic health record system.

20 10. As Defendant knew, and as a further part of the conspiracy, Company  
21 B's system, in turn, automatically applied Defendant's electronic signature to  
22 separately generated documentation that falsely stated that the test was medically  
23 necessary under Medicare guidelines and that it would be used to make decisions  
24 regarding the patient's care. While the wording of these certifications varied  
25 slightly, Defendant's electronic signature appeared on Company B documents  
26 entitled "Certificate of Medical Consultation" falsely stating that "[t]he result of  
27 this genetic test will have a direct impact on the patient's treatment and  
28



1 management,” and that “[k]nowledge of this patient’s cardiac genetic information .  
2 . . will guide my recommendations for care.”

3 11. The purpose of these false certifications was to make it appear as  
4 though the testing was appropriately ordered and eligible for Medicare  
5 reimbursement. As a further part of the conspiracy, once the documentation had  
6 been assigned Defendant’s signature, beneficiaries received a test kit in the mail  
7 from a genetic testing lab, which they would use to perform a buccal swab (i.e., a  
8 cheek swab using a cotton swab) and then mail the DNA sample back to the testing  
9 lab.

10 12. As a further part of the conspiracy, after the genetic testing lab  
11 received the sample, the lab billed Medicare sometimes as much as tens of  
12 thousands of dollars for each test and identified Defendant as the “referring  
13 physician” who had ordered the test. For each beneficiary, whether or not the test  
14 was performed, Company B also separately requested reimbursement from  
15 Medicare for a “patient visit” for the phone conversation that took place between  
16 Defendant and the beneficiary, listing Defendant as the “referring provider.” In a  
17 limited number of instances, multiple versions of the same cardiovascular genetic  
18 test were ordered, and multiple “visits” fraudulently billed by Companies A and B,  
19 for the same beneficiary.

20 13. Defendant knowingly participated in this scheme and conspiracy with  
21 respect to dozens of beneficiaries residing and located in the Eastern District of  
22 Washington, as well as beneficiaries in the Western District of Washington, and in  
23 other states in which Defendant was licensed to practice medicine.

24 14. None of the cardiovascular testing ordered by Defendant was  
25 medically necessary or reimbursable under Medicare, because, among other things:  
26 Defendant was not treating any of the beneficiaries for any medical issues;  
27 Defendant did not have or establish a bona fide physician-patient relationship with  
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1 any of the beneficiaries with whom he spoke; Defendant never used any of the  
2 results of the testing in the treatment of any beneficiaries; Defendant did not make  
3 a meaningful or reasonable diagnosis of medical necessity for any of the patients  
4 using independent medical judgment; and Defendant was being paid a kickback for  
5 each genetic test he approved.

6 15. As a further part of the conspiracy, in return for his participation in the  
7 scheme described above, Defendant received approximately \$24 for each  
8 beneficiary phone conversation, which typically took between three and four  
9 minutes of Defendant's time.

10 16. Billing data from Medicare indicates that during the relevant time  
11 period, through Defendant's participation in the scheme, Medicare paid more for  
12 genetic tests than for any physician billing Medicare in Washington and paid the  
13 fifth highest amount nationally for genetic tests ordered by Defendant. Billing data  
14 from Medicare indicates that in total, more than 8,500 claims on behalf of 5,593  
15 Medicare beneficiaries for genetic tests and physicians were falsely and  
16 fraudulently billed to Medicare by test labs and Company B based upon  
17 Defendant's approvals as the ordering physician, resulting in payment of  
18 \$18,657,310 in improperly and fraudulently obtained Medicare funds.

19 17. The overwhelming majority of these payments were shared only  
20 between Defendant's co-conspirators. However, between in or around December  
21 2020 and in or around September 2021, Defendant received at least \$167,996.73 as  
22 his personal compensation for his participation in the scheme. These payments  
23 were kickbacks in violation of 42 U.S.C. § 1320a-7b(b) in that Defendant received  
24 them in return for his ordering and referring medically unnecessary genetic testing.

#### 25 OVERT ACTS

26 18. The allegations set forth above in paragraphs 1 through 17 are  
27 realleged and incorporated herein.  
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INFORMATION

1           19. In furtherance of the conspiracy and to effect the objects of the  
2 conspiracy, the following overt acts, among others, were committed in the Eastern  
3 District of Washington, and elsewhere:

4           (a) on or about October 26, 2020, Defendant executed a “Physician  
5 Independent Contractor Agreement” with a company, referred to hereinafter as  
6 Company A, to provide contracted physician telemedicine services in support of  
7 certain types of genetic laboratory testing.

8           (b) As further set forth above, Defendant referred and ordered medically  
9 unnecessary genetic testing to be billed to Medicare for thousands of beneficiaries,  
10 including dozens of beneficiaries residing in the Eastern District of Washington.  
11 For each of these beneficiaries, Defendant solicited and received a kickback in the  
12 form of monetary remuneration in return for ordering the test or other service.  
13 Defendant’s conduct resulted in Medicare being billed for and paying  
14 approximately \$18,657,310 for medically unnecessary genetic testing and other  
15 items and services ordered and referred by Defendant between October 26, 2020  
16 and July 30, 2021. Defendant received approximately \$167,996.73 in kickbacks as  
17 his personal compensation for his participation in the scheme and conspiracy.  
18 All in violation of 18 U.S.C. § 371; 42 U.S.C. § 1320a-7b(b).

19                           NOTICE OF FORFEITURE ALLEGATIONS

20           The allegations contained in this Information are hereby re-alleged and  
21 incorporated herein by this reference for the purpose of alleging forfeitures.

22           Pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), upon  
23 conviction of an offense in violation of Conspiracy to Violate the Anti-Kickback  
24 Statute, in violation of 18 U.S.C. § 371, 42 U.S.C. § 1320a-7b(b), as alleged in this  
25 Information, Defendant CHRISTOPHER B. BJARKE, M.D., shall forfeit to the  
26 United States any property, real or personal, which constitutes or is derived from  
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1 proceeds traceable to the offense. The property to be forfeited includes, but is not  
2 limited to, the following:

3 MONEY JUDGMENT

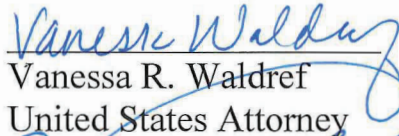
4 A sum of money equal to \$167,996.73 in United States currency,  
5 representing the amount of proceeds obtained by the Defendant as a  
6 result of his illegal conduct.

7 If any of the property described above, as the result of any act or omission of  
8 Defendant:

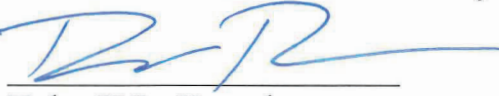
- 9 (a) cannot be located upon the exercise of due diligence;  
10 (b) has been transferred or sold to, or deposited with, a third party;  
11 (c) has been placed beyond the jurisdiction of the court;  
12 (d) has been substantially diminished in value; or  
13 (e) has been commingled with other property which cannot be divided  
14 without difficulty,

15 the United States shall be entitled to forfeiture of substitute property pursuant to 21  
16 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. §  
17 2461(c).

18 Dated this 12th day of September, 2022.

19   
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21 United States Attorney

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23 Dan Fruchter  
24 Assistant United States Attorney

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26 Tyler H.L. Tornabene  
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